

resolved many of the issues covered by Sections 251 and 252 of the Act, thereby opening Connecticut's exchange and in-state toll markets to competition in ways that Sections 251 and 252 mandate. The DPUC has completed more than a dozen proceedings and has required many of the market opening measures which Sections 251 and 252 mandate. The following is a summary listing of the action taken by the DPUC, as discussed above, and how that action is consistent with the Act:

- Just as Section 251(c)(2) contemplates, the DPUC has required that SNET interconnect with a CLEC network at any SNET end office, at any SNET tandem office, or at any mutually agreeable meet point.<sup>1/</sup>
- Just as Section 251(c)(3) mandates, the DPUC has required SNET to provide exchange service competitors, on an unbundled basis, specific network elements that competitors have requested (loops, ports, interoffice transport, and meet point transmission facilities).<sup>2/</sup>
- Just as Section 251(c) and (3) demand, the DPUC has specified the methods by which competitors may interconnect their networks with SNET's network.<sup>3/</sup>
- Just as Section 251(c)(3) requires, the DPUC has set interim rates for SNET's unbundled network elements,<sup>4/</sup> and SNET filed a tariff proposing final rates in July 1996.
- Just as Section 251(c)(6) directs, the DPUC has instructed SNET to permit exchange service competitors to physically collocate their equipment inside SNET's premises.<sup>5/</sup>

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<sup>1</sup> Decision in Dkt. No. 94-10-02, Investig. Into the Unbundling of The So. New Eng. Tel. Co's. Local Telecom. Network, (Sept. 22, 1995, recon. Jan. 17, 1996).

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Decision in Dkt. No. 95-06-17, Applic. of The So. New Eng. Tel. Co. for Approval to Offer Unbundled Loops, Ports and Associated Interconn. Arrangements (Dec. 20, 1995).

<sup>5</sup> Decision in Dkt. No. 94-10-02, supra.

- Just as Section 251(b)(5) mandates, the DPUC has adopted a reciprocal compensation plan requiring that all competing exchange carriers compensate each other for terminating exchange traffic via a bill-and-keep system for the first nine months of the competing carrier's operation. At the end of the nine-month period, reciprocal compensation will be provided via cost-based termination charges now under development unless affected exchange carriers agree to continue bill-and-keep.<sup>6/</sup>
- Just as Section 251(b)(5) compels, the DPUC has required that SNET provide the customers of all competing exchange carriers with telephone number portability via call forwarding (or a similar method) until a permanent means to provide number portability has been developed and deployed.<sup>7/</sup>
- Just as Section 251(b)(3) dictates, the DPUC has ordered SNET, by December 1 of this year, to provide equal access to all carriers for the provision of all in-state toll calls.<sup>8/</sup> SNET presently provides equal access arrangements for in-state toll calls in more than 85 percent of its end offices and will provide equal access in 100 percent of end offices by year-end 1996.
- Just as Section 251(b)(3) contemplates, DPUC policy already requires that SNET provide substantially all of its exchange customers, by December 1996, the right to subscribe to the in-state toll and interstate toll service of different interexchange carriers.<sup>9/</sup>
- Just as Section 251(c)(4) contemplates, SNET has filed with the DPUC proposed resale rates that reflect avoided costs along with cost studies supporting those proposed rates.

16. Already, fifteen companies, including AT&T, MCI, and Sprint, have been certified in Connecticut to provide exchange service under DPUC procedures providing that an application for

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<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Decision in Dkt. No. 94-02-07, So. New Eng. Tel. Co. Implementation of Intrastate Equal Access and Presubscription (Reopening) Oct. 26, 1994, recon. Aug. 9, 1995).

<sup>9</sup> Id.

certificate either be approved or denied within 60 days of the date it is filed. In addition, over 120 competitive intrastate toll providers have been certified to operate in Connecticut.

**Irreparable Harm to SNET**

17. The FCC's rules discard in one fell swoop the extensive work that SNET, the DPUC and others have conducted over a two-year period to implement local service competition in Connecticut in a manner that is in accordance with the Act. The rules do so despite the DPUC's finding in contested proceedings that its decisions and SNET's rates are consistent with the Act. The rules require the DPUC to discard the cost methodology it previously ordered SNET to use and to begin all over again. Consequently, SNET must go back to the drawing board and invest considerable time and expense into developing new cost models without any reimbursement for the investment it made to develop the cost models ordered by the DPUC and without any mechanism to recoup the substantial costs of complying with the FCC's rules in the event they are overturned.

18. Furthermore, if allowed to go into effect, the net result of the FCC's rules will be to disable SNET from competing in the telecommunications marketplace in Connecticut, a result that not only is not mandated by the Act but also is completely contrary to its plain language and overall intent. There are essentially three bases on which any business may compete with another: price; service; or technology. Yet the FCC's rules effectively prevent SNET from competing against its competitors in Connecticut (many of whom are substantially larger than SNET)

on any of these bases. Thus, as to price, the FCC requires SNET to sell its services and features to its competitors at a discount off its retail prices, even though in some cases those retail prices are below cost (First Report and Order ¶ 956), and the FCC requires SNET to make any discount or promotional program that it devises for its customers (in excess of 90 days' duration) available to its competitors so they can provide it to their own customers at an additional discount (id. ¶ 948). Thus, SNET can never have a price advantage against its competitors greater than 90 days. By contrast, SNET's competitors are under no similar obligation to SNET. On service and technology, the FCC's rules require SNET to provide competitors (i) with service that is superior to what it provides its own end users, and (ii) with any technology a competitor may request wherever the competitor wants it, so long as it is technically feasible--even technology that is superior to that which SNET currently employs and regardless of whether SNET wishes to implement that technology. (Id. ¶ 202). Thus, SNET is effectively disabled from competing on price, service or technology.

19. In addition, the FCC's rules effectively limit SNET's control of its business. For example, the FCC's rules require SNET to make available to its competitors all of its core operating systems, databases and software, even if they are proprietary in nature. (Id. ¶¶ 516-25). While the Act was certainly designed to open the marketplace to competition, it was not designed or written to do so by preventing incumbent LECs from competing in that same marketplace or by essentially

eliminating their control of the basic operations of their business. By effectively disabling SNET and other incumbent LECs from being able to compete in the telecommunications market, and by severely restricting their business control, the FCC's rules will inflict substantial and irreparable harm upon SNET and other incumbent LECs.

20. The FCC's rules, if allowed to go into effect, will therefore lead to an immediate and irreparable loss of customers, revenue and goodwill for SNET. For example, the FCC has imposed rates for SNET's wholesale service offering by mandating a specific and narrow range of discounts from the retail price charged by SNET. This usurpation of the DPUC's role in setting prices for intrastate services, in contravention of the Communications Act and the new Act, will cause SNET a loss of revenues based on the difference between the default retail cost avoidance discount imposed by the FCC and the discount that SNET has requested from the DPUC in the pending docket to conform the DPUC's methodology to the mandate of the Act. In addition, the excessive loss of retail market share that SNET will suffer from providing its competitors like AT&T with wholesale service priced at the required rates will also cause SNET to lose the associated revenues earned from selling the customer vertical services, such as custom calling services. SNET is also likely to lose a customer's business for long-distance services once the customer has chosen another company to provide its local service. Therefore, during the pendency of an appeal from the FCC's rules, SNET will lose customers and revenues that would be extremely

difficult, if not impossible, to regain. In addition, SNET will incur substantial costs that will be necessary to implement the systems and network requirements of the FCC's order.

21. SNET's loss of market share from the unfair advantage given to market entrants will be irreparable. If SNET prevails in its appeal of the FCC's rules, and the DPUC is able to reimpose final rates that do in fact reflect the true economic costs of SNET's telecommunications facilities and services (or the parties are able to negotiate such rates), it will be expensive and difficult--if not impossible--to attract lost customers back to SNET. "Win-back" strategies and marketing efforts are costly, and often not effective due to customer inertia and the perceived inconvenience of switching providers.

22. The impact of the FCC's rules is already evident in their effect on the negotiations and arbitrations contemplated by the Act. The FCC's decision to mandate specific measures in lieu of the Act's provision for free and open negotiations, subject to arbitration conducted by the DPUC, has undermined SNET's negotiations with CLECs and has tainted the arbitration that is currently underway between SNET and AT&T. The DPUC is required to render a decision in SNET's arbitration with AT&T by December 4, 1996, as reflected in Exhibit 2, and AT&T has already filed comments with the DPUC insisting on "immediate" implementation of the FCC's default proxy rates for wholesale service. In addition, SNET's negotiations with another CLEC,

TCG, which had been scheduled for August 14 and 15, 1996, were postponed because of the FCC's First Report and Order. Those negotiations have not yet been rescheduled. As a result of the FCC's rules, SNET's investment of time and resources into the negotiations and the arbitration will have been wasted. Moreover, if SNET is required now to adopt the FCC's imposed standards and the FCC's rules are later overturned on appeal, SNET will have to begin the negotiation and arbitration process anew, although even then it would be impracticable to modify and undo the effects of all of the onerous terms implemented under the regime imposed by the FCC.

23. Another example of the irreparable loss of revenue that the FCC's rules would cause SNET is the FCC's decision not to permit state utility commissions to consider actual incurred costs in pricing unbundled network elements. SNET has made substantial investments to provide high quality telephone service to its customers. The FCC's rules would require SNET to provide to competitors the benefit of these investments without just compensation. The confiscatory impact of the FCC's rules is compounded by the fact that the costs to be used in the TELRIC model mandated by the FCC are not even SNET's actual forward-looking costs but rather are the costs of a hypothetical entity that employs only the most efficient technology, a standard that ensures that SNET (and any other incumbent LEC) cannot recover its actual costs. SNET's competitors have in fact already filed comments with the DPUC contending that SNET's existing cost studies do not comply with the FCC's imposed TELRIC model because

SNET relied in the studies on its own network deployment plan, which the competitors now contend is not the "lowest cost network configuration." In contrast, the DPUC has recognized the need for SNET to recover actual (not theoretical) forward-looking costs as well as to recover some incurred costs even when employing a forward-looking incremental cost pricing model (see Exhibit 1).

24. SNET also has no means to recoup the additional investment it will need to make in facilities and manpower to implement the FCC's unlawful interconnection mandates. For example, one CLEC has already filed with the DPUC a request that the agency order SNET to condition its loops for ADSL and HDSL services upon request of a new entrant despite the fact that SNET does not even currently offer these services to its own customers and that this technology would be incompatible with the network deployment underway at SNET. The time and resources spent by SNET in building new facilities for--and responding to the demands of--its competitors to comply with the FCC's rules will be forever lost.

#### **No Harm if a Stay Is Granted**

25. A stay of the FCC's rules pending appeal would cause no harm. In the absence of the FCC's rules, the DPUC would continue to abide by the mandate of the Act as it has in the past and would continue its aggressive and intensive efforts to implement competition in Connecticut. Well before the FCC issued its rules, the DPUC required SNET to file and revise cost studies for determining the rates to be charged to competitors in the market



for local exchange service. The DPUC has determined that its actions are consistent with the Act, and that agency will continue to serve and protect the interests of the public and of competitors in SNET's service area while an appeal is pending.

26. In fact, not staying the FCC's rules would affirmatively harm the public interest. First, the FCC's rules will result in a waste of public resources by requiring the DPUC to reopen two years' worth of public hearings to modify its methodologies and to review the new cost studies that SNET must now prepare, despite the fact that the work conducted by the DPUC has been consistent with the Act. As one CLEC has acknowledged in a recent filing with the DPUC, the FCC's rules set back the timetable for the DPUC to set permanent rates for unbundled loops and wholesale service in place of interim or proxy rates: "MFS sees no other option for the Department in light of the FCC's Order." If the FCC's rules are overturned on appeal, any hearings based on the new cost studies will themselves have been for naught. Moreover, the FCC's imposition of its nationally imposed default "proxy" rates and pricing methodology in place of the DPUC's considered and particularized scheme threatens the very market distortions that the DPUC has sought to prevent with its pricing methodology. For example, the FCC's rates are likely to attract entrants into the market that otherwise would not have entered the market if prices reflected SNET's true economic costs. When prices are corrected, such market entrants most likely will not be able to survive, and the market and services to customers will be disrupted. Misallocation of resources also

is likely to occur because the existence of potential windfall profits to be made by new market entrants in the resale market is likely to dampen the development of other technologies and markets, such as the facilities-based competition that the DPUC has sought to encourage. A stay of the FCC's rules is therefore needed to prevent this injury to the public interest.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 8/27/96

  
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Anne U. MacClintock

### Exhibit 1

Some of the key developments in the DPUC's proceedings to implement P.A. 94-83 were as follows:

- In Docket No. 94-10-02, the DPUC established guidelines governing the physical interconnection of the systems of SNET and prospective local service providers.
- In Docket No. 94-10-01, the DPUC determined or reaffirmed prior determinations of the proper principles for measuring SNET's costs for purposes of setting rates. In particular, the DPUC decided that SNET is entitled to charge rates that cover its costs, as measured by its Total Service Long Run Incremental Cost (TSLRIC), as well as provide a level of contribution above incremental cost to recover common or shared costs (i.e., common overhead) properly attributable to the tariffed service. The decision recognized that a given price must provide some level of contribution to recover investment costs and associated expenses for a particular service.
- In Docket Nos. 94-07-01, 94-07-03, 94-07-04, and 94-07-07, the DPUC set forth the framework for local competition and addressed the need for SNET to offer elements of its network to prospective market entrants at tariffed, wholesale rates for resale to prospective customers in competition with SNET.
- In Docket No. 95-06-17, the DPUC built on the conceptual framework designed and articulated in those other proceedings when considering SNET's application for approval to offer unbundled loops, ports and associated interconnection arrangements for resale by competitors in Connecticut. The DPUC also addressed SNET's proposal to offer wholesale local basic service and certain related features for resale to competitors in Connecticut, as well as to establish a universal service fund appropriate to a competitive marketplace.

**Exhibit 2**

**STATUS OF SNET'S NEGOTIATIONS**

<b>Company</b>	<b>§ 252(a) Request Date</b>	<b>§ 252(b) Earliest Arbitration Petition Date</b>	<b>§ 252(b) Latest Arbitration Petition Date</b>	<b>Currently In Arbi- tration?</b>
AT&T	3/1/96	7/15/96	8/12/96	Yes
MCI	4/10/96	8/23/96	9/17/96	No
TCG	4/10/96	8/23/96	9/17/96	No
Brooks	5/3/96	9/15/96	10/14/96	No
TCI	5/28/96	10/10/96	11/4/96	No
WINSTAR	6/20/96	11/3/96	11/27/96	No
MFS	7/16/96*	11/27/96	12/23/96	No

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\* MFS's initial request date was 2/7/96, but MFS requested on 7/16/96 to restart the clock in order to continue negotiations past the deadline to request arbitration.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions in the Telecommunications	)	
Act of 1996	)	

AFFIDAVIT OF BARRY W. PAULSON

STATE OF TEXAS	§	
	§	
COUNTY OF DALLAS	§	

Barry W. Paulson, being duly sworn according to law, states as follows:

1. I am Vice President - Network Operations Planning & Support for GTE Telephone Operations. In that capacity I am responsible for, among other matters, end-to-end network planning, design, and construction, as well as service fulfillment activities.
2. I have over 23 years experience with GTE and Contel in the design and operation of telephone networks. During this time I have held a number of positions in network planning, engineering, marketing, and have served as General Manager for various operating regions.
3. I have reviewed in detail the Federal Communications Commission's (FCC) *First Report and Order* which was issued on August 8, 1996. This order purports to establish a framework of national rules implementing the local competition provisions of the Telecommunications Act of 1996.

4. The Commission's rules require GTE to make substantial investments to augment and modify its physical facilities, network capabilities, and administrative processes to provide requesting carriers with a wide range of physical facilities and network services on an unbundled or resale basis. When the rules become effective, GTE will immediately begin incurring these costs.

5. Furthermore, once GTE expends significant capital to begin restructuring its network to comply with the Commission's rules, the changes to its physical facilities and technical capabilities will be permanent and generally irrevocable. Examples of requirements under the Commission's rules that will force GTE to invest in new facilities or in modifications to existing facilities include the following:

a. The Order requires that GTE provide customized routing for operator services and directory assistance as elements to be unbundled from existing resold retail services. *First Report and Order* at ¶ 418. Customized routing can be accomplished in several ways, *e.g.*, presubscription, Advanced Intelligent Network, and use of line class codes. All of these solutions involve new investment in switch resources and additional trunking capacity, as well as physical reconfigurations of existing trunking and additional personnel to administer routing arrangements. GTE has examined one solution and estimates that, on average, the cost of enabling customized routing to be provided would be approximately \$50,000 in each of its 3,500 end offices where the capability for customized routing is requested. Another \$2,000 is required for each customized route arrangement actually provisioned in an end office. The actual magnitude of the costs involved will depend upon whether an industry standard approach can be developed that will enable GTE to provide customized routing in the same manner in all switch

types, and without implementation of an "interim" solution before the completion of a uniform approach. Once the investments are made to create the capability for customized routing, the changes will be permanent. If the Commission's rules are struck down, it is not clear that GTE will have any recourse to recover the amounts it will have expended in creating such customized routing.

b. The Order requires GTE to make substantial investment in measuring capability to permit usage based rates to be charged for the switching and Signaling System 7 elements. § 51.509(b) and (f) These investments have not previously been necessary for inclusion in GTE's network.

6. The Commissions rules also require that GTE immediately begin to either modify or replace existing provisioning and operational procedures. For example:

a. The Commission requires GTE to provide requesting carriers services at the level of quality specified by the requesting carrier, whether higher or lower than the quality of service GTE normally provides. *First Report and Order* at ¶ 225. This means that GTE will have to revise normal provisioning methods on an *ad hoc* basis to meet the requests of individual carriers. Obviously, providing unbundled elements to carriers at a level *higher* than that which GTE normally provides to itself will likely require GTE to make considerable investments in loop, switching and transport equipment. If the Commission's rules are struck down, the modifications made to provide specialized higher quality network elements to connecting carriers will be permanent, and GTE will again be left without any clear mechanism to recover its expenditures. Further, providing unbundled elements to carriers at a level *lower* than that which GTE normally provides to itself will require GTE to make considerable

investments to upgrade those facilities to a level acceptable to GTE once those facilities are no longer used by the original requesting party.

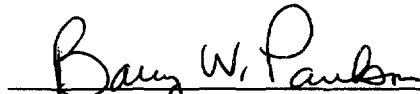
b. Similarly, under the Commission's interpretation of the Act's unbundling provisions, GTE must unbundle and provide electronic access to Operational Support Systems no later than January 1, 1997. *First Report and Order* at ¶ 525. It is not possible for GTE to meet this date. Even if GTE were immediately to dedicate all available resources to patch together a functional electronic interface to a number of disparate systems, the resulting gateway would not protect the information associated with end users from access by another service provider. In order to provide full functionality to multiple users while protecting the data of any given end user customer from unauthorized access, new systems must be created from scratch. National standards for these systems will not be in place during 1996. Accordingly, if the Commission's regulations go into effect, all capital expended during GTE's efforts to comply with this deadline will be completely wasted, as new systems will be built after national standards are implemented.

7. In summary, unless the Commission delays the effective date of its rules pending review, GTE must begin the process of a massive restructuring of its operations and in many cases, interim solutions will result in throw-away investment. This restructuring requires enormous capital and expense outlays, including dedicating hundreds of employees solely to that task. With few exceptions, a subsequent reversal of the Commission's rules would result in a pure waste of all funds spent to achieve compliance. However, once network rearrangements are



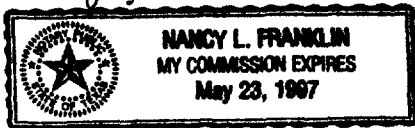
put in place and end user customers served over such arrangements, disconnecting those customers will prove enormously difficult.

The affiant says nothing further.

  
Barry W. Paulson

Subscribed and sworn to  
before me this 27th day of  
August, 1996.

  
Notary Public



Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions in the Telecommunications	)	
Act of 1996	)	

AFFIDAVIT OF DUANE G. JOHNSON

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS §

Duane G. Johnson, being duly sworn according to law, states as follows:

1. My name is Duane G. Johnson and I am Assistant Vice President-Regulatory and Governmental Affairs for GTE Telephone Operations. In that capacity I am responsible for, among other matters, preparing filings with the FCC, and determining the impact on GTE of various regulatory decisions.
2. I have over 25 years experience with GTE. During this time I have held various positions in regulatory relations, government affairs and marketing functions.
3. I have reviewed in detail the Federal Communications Commission's ("FCC") *First Report and Order* which was issued on August 8, 1996. This order establishes a framework of national rules implementing the local competition provisions of the Telecommunications Act of 1996.

4. The purpose of this affidavit is to describe two studies which were performed under my direction for the purpose of evaluating the accuracy and adequacy of the proxy cost and pricing in the *First Report and Order*. These analyses were performed to evaluate the differences between the proxy cost-based ceiling prices prescribed by the *First Report and Order* (at ¶¶788-827) for certain unbundled network elements as compared to the actual cost of providing those network elements.

5. The first analysis prepared under my direction is designed to determine the difference between the actual cost of a loop and the proxy cost adopted by the FCC as a basis for establishing a proxy price ceiling. The source data for determining the actual average cost of a loop was the "Universal Service Fund Annual Data Submission to FCC" submitted by the National Exchange Carrier Association (NECA) on September 29, 1995. This data is based upon filings made by local exchange companies with NECA in accordance with costing techniques specified by the FCC's Part 36. This data reflects actual costs for the year 1994, which is the latest available data. The costs include direct operating expenses, capital costs and allocated overheads. Investments are for the loops, as well as related support structures. These are the types of costs which the FCC stated would be eligible for inclusion in determining the cost of unbundled elements, even though the FCC specifies these should be estimated on a forward-looking basis.

6. The analysis converts the annual cost data found in the NECA report to a monthly amount so it can be directly compared to the FCC prescribed proxy ceiling costs/prices. The analysis shows that, with the exception of Nevada and Nebraska, the FCC proxy ceiling costs/prices are systematically well below the actual costs. Also, the results demonstrate that, even though the FCC model systematically understates the cost of loops, it does so in a very

inconsistent manner. The net effect of the use of FCC proxy costs for the purpose of setting prices would result in a loss to GTE for almost every unbundled local loop provided to a competitor. The results of the loop cost analysis are shown on Attachment 1.

7. The second study prepared under my direction is designed to compare the actual costs for wholesale operations of a local exchange company, after adjusting retail costs using the FCC's "avoidable" cost standard applied to current rates, to the revenues produced by the ceiling prices specified by the FCC, which were set equal to the proxy costs for unbundled loops, unbundled switching and tandem switching. *First Report and Order* at ¶¶ 911-920. The analysis demonstrates that the FCC has adopted proxy costs that dramatically understate GTE's wholesale costs.

8. GTE Hawaiian Telephone Company (HTC) was selected as the basis for this analysis for two principal reasons. First, HTC provides telephone service throughout the state of Hawaii, thus avoiding the need to distribute loop costs among multiple companies based upon their relative service area densities, *i.e.*, the FCC's geographical deaveraged rates. Second, HTC has recently been involved in an intrastate rate case proceeding. As a result, more detailed data are readily available for that company than would be the case normally. This fact allowed the analysis to be done in a short amount of time, compared to what would have been required if the analysis had been conducted on another company. Also, in this rate proceeding all of the costs of HTC were examined, and new rates have been put into place which are approximately equal to the aggregate of the cost of providing local, access and toll services in that state.

9. If the FCC's proxy cost methods produce results which are also similar to the current cost-based revenues, then the FCC's methods could be considered to yield a good approximation of the actual cost of wholesale operations. On the other hand, if the FCC's proxy cost methods

produce rates which over- or under-recover cost, then the FCC's methods can be considered to be poor cost estimation tools. Using revenues as a surrogate for the aggregate cost of service is appropriate for this analysis because the current HTC services, which use the same equipment as the FCC's unbundled elements, have very different pricing structures from those required by the FCC. For example, local, state access, and interstate access switched services use the same network elements as the FCC's unbundled switching element. However, HTC's services are a combination of fixed and usage sensitive prices that vary with the identity of the consumer, while the FCC's proxy price of \$.002 to \$.004 per minute for the unbundled switching element is only usage sensitive, but serves the same function. The most convenient way to compare the underlying cost estimates used to develop these different rate structures is to compute and compare the aggregate revenues which would be produced by the actual and proxy cost-based prices.

10. The analysis is based on the fact that, in aggregate, today's prices recover GTE's total cost of providing all of its services. Thus, at an aggregate level, the difference between current revenue, adjusted for the FCC's estimate of avoided retail cost, and the revenue which would be produced if the services were repriced at the proxy cost-based ceiling prices specified by the FCC, can be used to demonstrate the arbitrariness of the FCC's proxy cost methods and price ceilings.<sup>1</sup>

11. The results of the HTC revenue/cost analysis presented in Attachment 2, demonstrate that the proxy cost-based ceiling prices prescribed by the FCC for use by state commissions, if

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<sup>1</sup> Even though GTE believes the FCC's prescribed range of avoided cost is too high, the lower end of the FCC's range of avoided retail cost of 17% was used to adjust current revenue in order to reduce the conflict over the analysis. Therefore, the results are conservatively stated.

applied to HTC, would result in an under-recovery ranging from approximately \$117 to \$130 million per year. Even with the inclusion of the temporary CCL and TIC charges, the revenue would fall short by from \$79 to \$91 million per year. However, the inclusion of these amounts would understate the magnitude of the FCC's error.

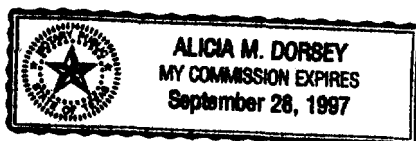
12. This under-recovery of cost would not result from competitive market forces, nor do the differences between the FCC's proxy cost estimates and actual cost represent indications of operating inefficiencies. Rather, they are the result of errors made by the FCC in the application of inappropriate and inaccurate cost data and cost study methods for the purpose of setting proxy ceiling prices. It is also the result of essentially repricing access services under the label of unbundled elements, each of which were priced on the basis of different costing methods. Prices of access services are currently based upon average costs. The FCC has specified the use of incremental cost as the basis for pricing unbundled elements. However, the FCC failed to include much of the relevant cost of providing network elements because it relied upon cost studies which were not based upon the FCC's own TELRIC principles. Also, the FCC neglected to deal with the lack of cost recovery in services under their jurisdiction which would be the expected consequence of their action.

NOTARY

*Alicia M. Dorsey*  
Signature

*Duane G. Johnson*  
Duane G. Johnson  
*Alicia M. Dorsey*  
Printed Name

SEAL



Date *August 27, 1996*

**Attachment 1**

**Affidavit of Duane G. Johnson**

**Comparison of Proxy Loop Rates to Actual Loop Cost<sup>1</sup>**

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<sup>1</sup> Actual loop cost computed from the "Universal Service Fund Annual Data Submission to FCC" submitted by the National Exchange Carrier Association dated September 29, 1995.

### Comparison of Proxy Loop Rates to Actual Loop Cost

STATE	PROXY CEILING LOOP RATE/MO	WEIGHTED LOOP COST/MO	
		STATE AVERAGE	GTE AVERAGE
ALABAMA	\$17.25	\$22.04	\$30.25
DISCOUNT TO PROXY		21.7%	27.1%
ARKANSAS	\$21.18	\$28.15	\$34.04
DISCOUNT TO PROXY		24.8%	37.8%
CALIFORNIA	\$11.10	\$17.21	\$25.07
DISCOUNT TO PROXY		35.5%	55.7%
ARIZONA-Cal.	\$12.85	\$23.30	\$42.80
DISCOUNT TO PROXY		44.8%	70.0%
NEVADA-Cal	\$18.95	\$15.53	\$26.53
DISCOUNT TO PROXY		-22.0%	28.6%
FLORIDA	\$13.68	\$25.10	\$25.05
DISCOUNT TO PROXY		45.5%	45.4%
HAWAII	\$15.27	\$23.09	\$23.09
DISCOUNT TO PROXY		33.9%	33.9%
IDAHO	\$20.16	\$25.86	\$36.19
DISCOUNT TO PROXY		22.0%	44.3%
ILLINOIS	\$13.12	\$13.95	\$19.78
DISCOUNT TO PROXY		5.9%	33.7%
INDIANA	\$13.29	\$19.26	\$22.33
DISCOUNT TO PROXY		31.0%	40.5%
IOWA	\$15.94	\$16.82	\$22.61
DISCOUNT TO PROXY		5.2%	29.5%



**Comparison of Proxy Loop Rates to Actual Loop Cost**

STATE	PROXY CEILING LOOP RATE/MO	WEIGHTED LOOP COST/MO	
		STATE AVERAGE	GTE AVERAGE
KENTUCKY	\$16.70	\$24.53	\$28.51
DISCOUNT TO PROXY		31.9%	41.4%
MICHIGAN	\$15.27	\$18.90	\$27.05
DISCOUNT TO PROXY		19.2%	43.5%
MINNESOTA	\$14.81	\$19.05	\$25.15
DISCOUNT TO PROXY		22.2%	41.1%
MISSOURI	\$18.32	\$21.02	\$34.64
DISCOUNT TO PROXY		12.9%	47.1%
NEBRASKA	\$18.05	\$18.05	\$20.84
DISCOUNT TO PROXY		-0.0%	13.4%
NEW MEXICO	\$18.66	\$26.09	\$27.86
DISCOUNT TO PROXY		28.5%	33.0%
NORTH CAROLINA	\$16.71	\$25.10	\$26.49
DISCOUNT TO PROXY		33.4%	36.9%
OHIO	\$15.73	\$18.94	\$23.16
DISCOUNT TO PROXY		17.0%	32.1%
OKLAHOMA	\$17.63	\$23.00	\$32.12
DISCOUNT TO PROXY		23.3%	45.1%
OREGON	\$15.44	\$23.00	\$22.94
DISCOUNT TO PROXY		32.9%	32.7%
PENNSYLVANIA	\$12.30	\$17.82	\$21.09
DISCOUNT TO PROXY		31.0%	41.7%